



William C. Baton
Phone: (973) 286-6722
Fax: (973) 286-6822
wbaton@saul.com
www.saul.com

March 1, 2016

VIA ECF

The Honorable Douglas E. Arpert, U.S.M.J.
United States District Court
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, NJ 08608

Re: *Sucampo AG, et al. v. Dr. Reddy's Laboratories, Inc., et al.*,
Civil Action No. 14-7114 (MAS)(DEA)

Dear Judge Arpert:

This firm, together with Paul Hastings LLP and Patterson Belknap Webb & Tyler LLP, represents Plaintiffs in the above-captioned matter. We write in response to the February 29, 2016 letter sent to Your Honor by the Dr. Reddy's Defendants ("DRL") in support of DRL's motion to compel Plaintiffs to alter their Local Patent Rule 4.2(a) "Preliminary Claim Constructions." (D.I. 48.)

Although DRL's letter purports to present "new" law to the Court, there is nothing in the *Eon* decision that changes the law applicable to the issue before Your Honor. Instead, the decision underscores that it is the province of the trial judge -- in the present case, Judge Shipp -- to decide claim construction, including whether a proffered "plain meaning" or other proposed construction should apply to a disputed claim term. In *Eon*, two of the three-judge panel found that the trial judge erred by leaving unanswered the question of claim scope when the meaning of two terms were provided to the jury. *Eon Corp, IP Holdings LLC v. Silver Spring Networks, Inc.*, No. 2015-1237, *Slip Op.* at 8-9 (Fed. Cir. Feb. 29, 2016). However, the dissenting judge believed that the trial judge had properly resolved the dispute by accepting the plaintiff's "plain and ordinary meaning" construction and declining the defendant's request to add a "special definition." *Id.* at 12-13 (Bryson, J., dissenting). Nothing in the divided panel decision of *Eon* has changed the Federal Circuit's understanding that "plain meaning" is a proper claim construction. *See Newell Companies, Inc. v. Kenney Mfg. Co.*, 864 F.2d 757, 765 (Fed. Cir. 1988) ("This court has adopted the rule that prior decisions of a panel of the court are binding precedent on subsequent panels unless and until overturned *in banc*."). Accordingly, the Federal Circuit's *Finjan Inc. v. Secure Computing Corp.* decision, holding that a trial court may adopt a

Hon. Douglas E. Arpert, U.S.M.J.

March 1, 2016

Page 2

party's proposed "plain and ordinary meaning" construction, remains applicable in this case. (See D.I. 44 at 2-4 (discussing *Finjan* decision).)

Finally, DRL's characterization and suggested application of the *Eon* decision to Local Patent Rule 4.2(a) is inconsistent with DRL's own conduct. Specifically, DRL has previously filed in this Court and other courts Joint Claim Construction Charts where DRL -- along with several co-defendants -- proposed "plain and ordinary meaning" as their constructions in opposition to constructions proposed by plaintiffs that offered special definitions. (See Exhibit A at page 3 and Exhibit B at pages 21, 22, and 35.) Again, nothing in *Eon* changes the parties' ability to propose, or the District Judge's ability to adopt, "plain and ordinary meaning" as the proper construction of a disputed claim term under the Local Patent Rules.

Thank you for Your Honor's kind attention to this matter.

Respectfully yours,



William C. Baton

Exhibits

cc: All Counsel (via e-mail)

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

PURDUE PHARMACEUTICAL PRODUCTS
L.P., *et al.*,

Plaintiffs,

v.

ACTAVIS ELIZABETH LLC, *et al.*,
Defendants.

Consolidated Civil Action No.
12-CV-05311 (JLL)(JAD)

AMENDED JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Pursuant to Paragraph 13 of the Superseding Amended Pretrial Scheduling Order (docket entry 71), the order changing the deadline for the parties to file their joint claim construction statement (docket entry 87), and Local Patent Rule 4.3, Plaintiffs Purdue Pharmaceutical Products L.P.; Purdue Pharma L.P.; and Transcept Pharmaceuticals, Inc. (collectively, “Plaintiffs”); and Defendants Actavis Elizabeth LLC; Novel Laboratories, Inc.; Par Formulations Private Ltd. and Par Pharmaceutical, Inc.; and Dr. Reddy’s Laboratories, Inc. and Dr. Reddy’s Laboratories, Ltd. (collectively, “Defendants”) hereby submit their Amended Joint Claim Construction and Prehearing Statement concerning U.S. Patent No. 7,682,628 (“628 Patent”); U.S. Patent No. 8,242,131 (“131 Patent”); and U.S. Patent No. 8,252,809 (“809 Patent”).

I. Construction of Claim Terms on which the Parties Agree (L. Pat. R. 4.3(a))

In accordance with Local Patent Rule 4.3(a), the parties agree that the terms below should be construed as follows:

U.S. Patent No. 7,682,628

Term Identified for Construction	Joint Proposed Construction
“insomnia” (Claim 1)	“a sleep disorder characterized by symptoms including, without limitation, difficulty in falling asleep, difficulty in staying asleep, intermittent wakefulness, and/or waking up too early”
“dissolves” (Claims 1, 3, and 4)	“reduces from a solid form to a liquid form”
“average plasma concentration” (Claim 14)	“mean peak plasma concentration within about 5 minutes to about 2 hours”

U.S. Patent No. 8,242,131

Term Identified for Construction	Joint Proposed Construction
“middle-of-the-night insomnia” (Claims 1 and 12)	“the condition wherein a subject, after falling asleep, awakens and has difficulty returning to sleep”
[Preamble] “A method of treating middle-of-the-night insomnia in a [non-elderly][elderly] patient without prophylactically administering zolpidem, comprising” (Claims 1 and 12)	The preamble in Claims 1 and 12 is limiting.

U.S. Patent No. 8,252,809

Term Identified for Construction	Joint Proposed Construction
“MOTN insomnia” (Claims 1 and 12)	“middle-of-the-night insomnia, which is the condition wherein a subject, after falling asleep, awakens and has difficulty returning to sleep”

“an amount sufficient to produce a plasma concentration between about 25 ng/ml and about 50 ng/ml within 20 minutes of administration, when evaluated in an appropriate patient population” (Claims 1 and 12)	Plain and ordinary meaning.
“[the solid unit dosage form] dissolves” (Claims 13–16)	In Claims 13 and 15: “a portion of the solid unit dosage form converts to a solution or slurry form” In Claims 14 and 16: “the solid unit dosage form converts to a solution or slurry form”

II. Proposed Constructions of Disputed Claim Terms (L. Pat. R. 4.3(b))

In accordance with Local Patent Rule 4.3(b), each party’s proposed construction for the disputed claim terms is as follows:

U.S. Patent No. 7,682,628

Term Identified for Construction	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“buffer” (Claim 1)	Plain and ordinary meaning. To the extent additional construction is necessary: “at least one substance used to maintain an approximate pH range”	“A buffer system of two or more buffering agents.”

U.S. Patent No. 8,242,131

Term Identified for Construction	Plaintiffs’ Proposed Construction	Defendants’ Proposed Construction
“without prophylactically administering zolpidem” (Claims 1 and 12)	“without delivering zolpidem into the patient’s body before the initial onset of sleep”	Plain and ordinary meaning.

Dated: September 19, 2013

/s/ Stephen R. Buckingham
Stephen R. Buckingham
Michael Dore
Adam B. Lavinthal
LOWENSTEIN SANDLER LLP
65 Livingston Avenue
Roseland, New Jersey 07068
Tel: (973) 597-2500

Christopher N. Sipes
Michael N. Kennedy
Erica N. Andersen
Kaveh Saba
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: (202) 662-6000
Fax: (202) 662-6291

Attorneys for Plaintiffs

/s/ Harry D. McEnroe
Harry D. McEnroe
Matthew P. O'Malley
**TOMPKINS, McGUIRE, WACHENFELD
& BARRY LLP**
Four Gateway Center
100 Mulberry Street, Suite 5
Newark, New Jersey 07102
Tel.: 973.622.3000

Jeffery B. Arnold
CANTOR COLBURN LLP
1180 Peachtree Street, Suite 2050
Atlanta, GA 30309
Tel.: 404.607.9991

Steven M. Coyle
CANTOR COLBURN LLP
20 Church St., 22nd Floor
Hartford, CT 06103
Tel.: 860.286.2929

*Counsel for Defendants Dr. Reddy's Laboratories, Inc.
and Dr. Reddy's Laboratories, Ltd.*

/s/ Hillel I. Parness
Justin P. Walder
Rebekah R. Conroy
WALDER, HAYDEN & BROGAN, P.A.
5 Becker Farm Road
Roseland, New Jersey 07068
Tel.: 973.992.5300

Hillel I. Parness
Ronald M. Daignault
Jeffrey A. Hovden
Oren D. Langer
Miles A. Finn
**ROBINS, KAPLAN, MILLER & CIRESI
LLP**
601 Lexington Avenue, Suite 3400
New York, New York 10022
Tel.: 212.980.7400

Counsel for Defendant Novel Laboratories, Inc.

/s/ John K. Hsu
James S. Richter
WINSTON & STRAWN LLP
The Legal Center
One Riverfront Plaza, Suite 730
Newark, New Jersey 07102
Tel.: 973.848.7676

Samuel S. Park
Dan H. Hoang
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601-9703
Tel.: 312.558.5600

Charles B. Klein
John K. Hsu
WINSTON & STRAWN LLP
1700 K Street, N.W.
Washington, DC 20006-3817
Tel.: 202.282.5000

Counsel for Defendant Actavis Elizabeth LLC

/s/ Bradford C. Frese

Sean R. Kelly

Geri L. Albin

SAIBER LLC

18 Columbia Turnpike, Suite 200

Florham Park, NJ 07932

Tel.: 973.622.3333

Janine A. Carlan

Aziz Burgy

Bradford C. Frese

ARENT FOX LLP

1717 K Street, NW

Washington, DC 20036-5342

Tel.: 202.857.6000

*Counsel for Defendants Par Formulations Private Ltd.
and Par Pharmaceutical, Inc.*

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

)	
)	
)	
IN RE BENDAMUSTINE CONSOLIDATED)	C.A. No. 13-2046-GMS (consolidated)
CASES)	
)	
)	
)	

AMENDED JOINT CLAIM CONSTRUCTION CHART

Pursuant to Paragraph 4 of the Court’s Scheduling Order, attached as Exhibits A, B, C, and D hereto are the Final Joint Claim Charts for U.S. Patent Nos. 8,445,524, 8,436,190, 8,609,863, and 8,791,270, respectively.¹

Respectfully submitted,

<p>SHAW KELLER LLP</p> <p><u>/s/ John W. Shaw</u></p> <p>John W. Shaw (No. 3362) Karen E. Keller (No. 4489) 300 Delaware Ave., Suite 1120 Wilmington, DE 19801 (302) 298-0700 jshaw@shawkeller.com kkeller@shawkeller.com</p> <p>OF COUNSEL:</p>	<p>BAYARD, P.A.</p> <p><u>/s/ Stephen B. Brauerman</u></p> <p>Stephen B. Brauerman (No. 4952) Vanessa R. Tiradentes (No. 5398) Sara E. Bussiere (No. 5725) 222 Delaware Avenue, Suite 900 Wilmington, DE 19801 (302) 655-5000 sbrauerman@bayardlaw.com vtiradentes@bayardlaw.com sbussiere@bayardlaw.com</p> <p>OF COUNSEL:</p>
--	---

¹ The parties respectfully submit this amended joint claim construction chart to correct typographical errors in the original chart, to remove proposed constructions that Defendants have since dropped, to add intrinsic evidence that the parties either inadvertently left out of the original chart or are including in order to respond to one another’s intrinsic evidence in the original chart and to accurately reflect the wording of the constructions the parties proposed in their opening claim construction briefs

<p>David M. Hashmall Calvin E. Wingfield Jr. Jonathan A. Auerbach Timothy J. Rousseau Joshua A. Whitehill GOODWIN PROCTER LLP The New York Times Building 620 Eighth Avenue New York, NY 10018 (212) 813-8800</p> <p>Paul F. Ware Daryl L. Wiesen Emily L. Rapalino Nicholas K. Mitrokostas GOODWIN PROCTER LLP Exchange Place 53 State Street Boston, MA 02109 (617) 570-1000</p> <p><i>Counsel for Plaintiff Cephalon, Inc. in C.A. Nos. 13-2046-GMS; 13-2082-GMS; 13-2094- GMS; 13-2096-GMS; 14-122-GMS; 14-333- GMS; 14-334-GMS; 14-335-GMS; 14-568- GMS, 14-671-GMS, 14-1116-GMS, 14-1241- GMS, 14-1242-GMS, 14-1243-GMS, and 14- 1332</i></p>	<p>David M. Hashmall Calvin E. Wingfield Jr. Jonathan A. Auerbach Timothy J. Rousseau Joshua A. Whitehill GOODWIN PROCTER LLP The New York Times Building 620 Eighth Avenue New York, NY 10018 (212) 813-8800</p> <p>Paul F. Ware Daryl L. Wiesen Emily L. Rapalino Nicholas K. Mitrokostas GOODWIN PROCTER LLP Exchange Place 53 State Street Boston, MA 02109 (617) 570-1000</p> <p><i>Counsel for Plaintiff Cephalon, Inc. in C.A. Nos. 13-2080-GMS; 13-2081-GMS; 13-2093- GMS; 13-2095-GMS; 13-2104-GMS; 14-590- GMS, 14-1045-GMS, 141237-GMS, 14-1238- GMS, and 14-1239-GMS</i></p>
--	---

<p>SMITH KATZENSTEIN & JENKINS LLP</p> <p><u>/s/ Neal C. Belgam</u> Neal C. Belgam (No. 2721) 800 Delaware Avenue, Suite 1000 P.O. Box 410 Wilmington, DE 19899 (302) 504-1688 nbelgam@skjlaw.com</p> <p>OF COUNSEL:</p> <p>Michael R. Dzwonczyk Sughrue Mion, PLLC 2100 Pennsylvania Ave., N. W. Washington, DC 20037 mdzwonczyk@sughrue.com</p> <p><i>Counsel for Accord Healthcare Inc.</i></p>	<p>SEITZ ROSS ARONSTAM & MORITZ LLP</p> <p><u>/s/ Benjamin J. Schladweiler</u> Benjamin J. Schladweiler (No. 4601) 100 S. West Street, Suite 400 Wilmington, DE 19801 (302) 576-1600 bschladweiler@seitzross.com</p> <p>OF COUNSEL:</p> <p>Anthony J. Fitzpatrick Vincent L. Capuano Laura A. Vogel Carolyn A. Alenci Duane Morris LLP 100 High Street, Suite 2400 Boston, MA 02110-1724 ajfitzpatrick@duanemorris.com vcapuano@duanemorris.com lavogel@duanemorris.com caalenci@duanemorris.com</p> <p>Emily N. Winfield Duane Morris LLP 190 South LaSalle Street, Suite 3700 Chicago, IL 60603-3433 enwinfield@duanemorris.com</p> <p><i>Counsel for Actavis LLC</i></p>
--	--

<p>MORRIS JAMES LLP</p> <p><u>/s/ Mary B. Matterer</u></p> <p>Mary B. Matterer (No. 2696) 500 Delaware Avenue, Suite 1500 Wilmington, DE 19801 (302) 888-6800 mmatterer@morrisjames.com OF COUNSEL:</p> <p>Nicole Stafford Anna Phillips Wilson, Sonsini, Goodrich & Rosati 900 South Capital of Texas Highway Las Cimas IV, Fifth Floor Austin, TX 78746 nstafford@wsgr.com anphillips@wsgr.com</p> <p>Joshua Mack Wilson, Sonsini, Goodrich & Rosati 12235 El Camino Real, Suite 200 San Diego, CA 92130 (858)350-2300 jmack@wsgr.com</p> <p><i>Counsel for Agila Specialties Inc., Onco Therapies Limited</i></p>	<p>PINCKNEY, WEIDINGER, URBAN & JOYCE LLC</p> <p><u>/s/ Gregory T. Donilon</u></p> <p>Elizabeth Wilburn Joyce (No. 3666) Gregory T. Donilon (No. 4244) 1220 N. Market Street, Suite 950 Wilmington, DE 19801 (302) 504-1497 ewilburnjoyce@pwujlaw.com</p> <p>OF COUNSEL:</p> <p>Louis H. Weinstein James P. Barabas BUDD LARNER, P.C. 50 John F. Kennedy Parkway Short Hills, NJ 07078 (973) 379-4800 lweinstein@buddlerner.com jbarabas@buddlerner.com</p> <p><i>Counsel for Dr. Reddy's Laboratories Ltd. and Dr. Reddy's Laboratories Inc.</i></p>
--	---

<p>STAMOULIS & WEINBLATT LLC</p> <p><u>/s/ Stamatios Stamoulis</u></p> <p>Stamatios Stamoulis (No. 4606) Richard C. Weinblatt (No. 5080) Two Fox Point Centre 6 Denny Road, Suite 307 Wilmington, DE 19809 (302) 999-1540 stamoulis@swdelaw.com weinblatt@swdelaw.com</p> <p>OF COUNSEL:</p> <p>Barry S. White Steven M. Amundson Frommer Lawrence & Haug LLP 745 Fifth Avenue New York, New York 10151 (212) 588-0800 bwhite@flhlaw.com</p> <p><i>Counsel for Emcure Pharmaceuticals Ltd. and Emcure Pharmaceuticals USA, Inc.</i></p>	<p>CONNOLLY GALLAGHER LLP</p> <p><u>/s/ Ryan P. Newell</u></p> <p>Arthur G. Connolly III (No. 2667) Ryan P. Newell (No. 4744) Mary I. Akhimien (No. 5448) 1000 West Street, Suite 1400 Wilmington, DE 19801 (302) 757-7300 aconnolly@connollygallagher.com rnewell@connollygallagher.com makhimien@connollygallagher.com</p> <p>OF COUNSEL:</p> <p>Sailesh K. Patel A. Taylor Corbitt Schiff Hardin LLP 233 South Wacker Drive, Suite 6600 Chicago, IL 60606 (312) 258-5500 spatel@schiffhardin.com tcorbitt@schiffhardin.com</p> <p>Gina M. Bassi Schiff Hardin LLP 666 Fifth Avenue Suite 1700 New York, NY 10103 (212) 753-5000 gbassi@schiffhardin.com</p> <p><i>Counsel for Glenmark Pharmaceuticals Ltd., Glenmark Generics Ltd., Glenmark Generics S.A. and Glenmark Generics Inc. USA</i></p>
---	--

<p>ABRAMS & BAYLISS, LLP</p> <p><u>/s/ John M. Seaman</u></p> <p>John M. Seaman (No. 3868) 20 Montchanin Road, Suite 200 Wilmington, DE 19807 (302) 778-1000 seaman@abramsbayliss.com</p> <p>OF COUNSEL:</p> <p>Neal Seth Karin Hessler Wiley Rein LLP 1776 K St NW Washington DC 20006 nseth@wileyrein.com</p> <p><i>Counsel for Hetero Labs Ltd. and Hetero USA, Inc.</i></p>	<p>YOUNG CONAWAY STARGATT & TAYLOR LLP</p> <p><u>/s/ Melanie K. Sharp</u></p> <p>Melanie K. Sharp (No. 2501) Monté T. Squire (No. 4764) Samantha G. Wilson (No. 5816) Rodney Square 1000 North King Street Wilmington, DE 19801 (302) 571-6881 msharp@ycst.com</p> <p>JENNER & BLOCK LLP Bradford P. Lyerla Sara Tonnies Horton Yusuf Esat 353 N. Clark St. Chicago, IL 60654 -3456 (312) 222-9350</p> <p><i>Counsel for Hospira, Inc.</i></p>
--	---

<p>STAMOULIS & WEINBLATT LLC</p> <p><u>/s/ Stamatios Stamoulis</u></p> <p>Stamatios Stamoulis (No. 4606) Richard C. Weinblatt (No. 5080) Two Fox Point Centre 6 Denny Road, Suite 307 Wilmington, DE 19809 (302) 999-1540 stamoulis@swdelaw.com weinblatt@swdelaw.com</p> <p>OF COUNSEL:</p> <p>Michael H. Baniak Shashank Upadhye Seyfarth Shaw LLP 131 South Dearborn Street, Suite 2400 Chicago, IL 60603 mbaniak@seyfath.com supadhye@seyfarth.com</p> <p>Nigamnarayan (Nigam) Acharya SEYFARTH SHAW LLP 1075 Peachtree Street, N.E., Suite 2500 Atlanta, GA 30309 nacharya@seyfarth.com</p> <p><i>Counsel for InnoPharma, Inc.</i></p>	<p>PROCTOR HEYMAN LLP</p> <p><u>/s/ Dominick Gattuso</u></p> <p>Dominick Gattuso (No. 3630) 300 Delaware Ave., Suite 200 Wilmington, DE 19801 (302) 472-7300 DGattuso@proctorheyman.com</p> <p>OF COUNSEL:</p> <p>David C. Doyle Eric M. Acker E. Cary Miller Stephen D. Keane Mary Prendergast MORRISON & FOERSTER LLP 12531 High Bluff Drive, Suite 100 San Diego, California 92130-2040 Telephone: 858.720.5100 DDoyle@mofo.com EAcker@mofo.com EMiller@mofo.com SKeane@mofo.com MPrendergast@mofo.com</p> <p><i>Counsel for Sandoz Inc.</i></p>
--	--

<p>PHILLIPS, GOLDMAN & SPENCE, P.A.</p> <p><u>/s/ Jack C. Phillips, Jr.</u></p> <p>John C. Phillips, Jr. (No. 110) Megan C. Haney (No. 5016) 1200 North Broom Street Wilmington, DE 19806 (302) 655-4200 jcp@pgslaw.com mch@pgslaw.com</p> <p>OF COUNSEL:</p> <p>William A. Rakoczy Paul J. Molino John D. Polivick Rakoczy Molino Mazzochi Siwik LLP 6 West Hubbard Street, Suite 500 Chicago IL 60654 wrakoczy@rmmslegal.com paul@rmmslegal.com jpolivick@rmmslegal.com dgupta@rmmslegal.com</p> <p><i>Counsel for Sun Pharmaceuticals Industries Ltd. and Sun Pharma Global FZE</i></p>	<p>STAMOULIS & WEINBLATT LLC</p> <p><u>/s/ Stamatios Stamoulis</u></p> <p>Stamatios Stamoulis (No. 4606) Richard C. Weinblatt (No. 5080) Two Fox Point Centre 6 Denny Road, Suite 307 Wilmington, DE 19809 (302) 999-1540 stamoulis@swdelaw.com weinblatt@swdelaw.com</p> <p>OF COUNSEL:</p> <p>Paul H. Berghoff Paul S. Tully, Ph.D. Erin R. Woelker McDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. Wacker Dr. Chicago, Illinois 60606 (312) 913-0001</p> <p><i>Counsel for Uman Pharma, Inc.</i></p>
--	---

<p>FLASTER/GREENBERG P.C.</p> <p><u>/s/ William J. Burnett</u> William J. Burnett (#4078) 1000 N. West Street Suite 1200 Wilmington, DE 19801 302.351.1910 william.burnett@flastergreenberg.com</p> <p><i>Attorneys for Defendants Eurohealth International Sarl and West-Ward Pharmaceutical Corp.</i></p>	<p>POLSINELLI PC</p> <p><u>/s/ Jarrett K. Vine</u> R. Montgomery Donaldson (DE Bar No. 4367) Shanti M. Katona (DE Bar No. 5352) Jarrett K. Vine (DE Bar No. 5400) 222 Delaware Avenue, Suite 1101 Wilmington, Delaware 19801 Phone: (302) 252-0920 Fax: (302) 252-0921 rmdonaldson@polsinelli.com skatona@polsinelli.com jvine@polsinelli.com</p> <p>OF COUNSEL:</p> <p>Ronald M. Daignault Tedd W. Van Buskirk POLSINELLI PC 900 Third Avenue 21st Floor New York, NY 10022 Phone: (212) 684-0199 Fax: (212) 684-0197 rdaignault@polsinelli.com</p> <p><i>Counsel for Defendant Sagent Pharmaceuticals, Inc.</i></p>
---	--

<p>RICHARDS, LAYTON & FINGER, P.A.</p> <p><u>/s/ Kelly E. Farnan</u> Kelly E. Farnan (#4395) Farnan@rlf.com One Rodney Square P.O. Box 551 Wilmington, DE 19899 (302) 651-7700</p> <p>OF COUNSEL: Robert Vroom Breckenridge Pharmaceutical Inc. 60 E. 42nd Street, Suite 5210 New York, New York 10165</p> <p><i>Attorneys for Defendants Breckenridge Pharmaceutical, Inc. and Natco Pharma Limited</i></p>	<p>RICHARDS, LAYTON & FINGER, P.A.</p> <p><u>/s/ Jason Rawnsley</u> Steven J. Fineman (#4025) Jason Rawnsley (#5379) One Rodney Square 920 North King Street Wilmington, DE 19801 (302) 651-7700 fineman@rlf.com rawnsley@rlf.com</p> <p>OF COUNSEL: Daniel G. Brown Terrence J. Connolly LATHAM & WATKINS LLP 885 Third Avenue New York, NY 10022 (212) 906-1200</p> <p>Marc N. Zubick Lauren Sharkey LATHAM & WATKINS LLP 330 North Wabash Ave, Suite 2800 Chicago, IL 60611 (312) 876-7700</p> <p><i>Attorneys for Defendant Eagle Pharmaceuticals, Inc.</i></p>
---	---

<p>BIFFERATO, LLC</p> <p><u>/s/ Thomas F. Driscoll</u></p> <p>Thomas F. Driscoll III (#4703) 800 N. King Street, Plaza Legal Wilmington, DE 19801 Tel : (302)254-7600 tdriscoll@bifferato.com</p> <p>OF COUNSEL: Jay R. Deshmukh William R. Zimmerman KNOBBE, MARTENS, OLSON & BEAR, LLP 1717 Pennsylvania Avenue N.W., Suite 900 Washington, DC 20006 Tel: 202-640-6400</p> <p>Thomas P. Krzeminski William O. Adams Karen M. Cassidy KNOBBE, MARTENS, OLSON & BEAR, LLP 2040 Main Street, 14th Floor Irvine, CA 92614 Tel: 949-760-0404</p> <p><i>Attorneys for Defendants Wockhardt Bio AG, Wockhardt Ltd, and Wockhardt USA, LLC</i></p>	
---	--

EXHIBIT A

Final Joint Claim Chart for U.S. Patent No. 8,445,524 (“the ‘524 patent”)
In re Bendamustine Consolidated Cases,
Civil Action No. 13-2046-GMS (consolidated)

Disputed Constructions

Claim Term [applicable claims]	Plaintiff’s Proposed Construction and Intrinsic Evidence²	Defendants’^{3,4} Proposed Construction and Intrinsic Evidence
“solid form of bendamustine hydrochloride, designated as bendamustine hydrochloride Form 1” [claim 1]	<p>Plaintiff’s Proposal: “crystal form of bendamustine hydrochloride that can be distinguished from other forms by its X-ray powder diffraction pattern”</p> <p>INTRINSIC EVIDENCE:</p> <p><u>‘524 Patent:</u></p> <ul style="list-style-type: none"> • 2:37 – 2:64 • 3:21 – 3:22 • 3:29 – 3:30 • 3:39 – 3:42 • 3:45 – 3:50 	<p>Defendants’ Proposal: “crystal form of bendamustine hydrochloride that does not contain any water and that can be distinguished from other forms by its X-ray powder diffraction pattern”</p> <p>INTRINSIC EVIDENCE:</p> <p><u>‘524 Patent:</u></p> <ul style="list-style-type: none"> • Col.1, 1.23-38 • Col.2, 1.36-39 • Col.2, 1.65 - col.3, 1.7 • Col.4, 1.2-9 • Col.4, 1.14-20

² Cephalon reserves the right to rely on Defendants’ intrinsic evidence.

³ Only claims 7–8, 16–18, and 20–23 of US Patent No. 8,791,270 are asserted against Defendant Eagle Pharmaceuticals, Inc.’s (“Eagle”) NDA product. Accordingly, for all other claims of any patent asserted as part of this litigation, Eagle expressly states that it does not join in any proposed constructions by any party.

⁴ Defendants reserve the right to rely on Cephalon’s intrinsic evidence. Further Defendants reserve the right to assert the invalidity defense of claim indefiniteness under 35 U.S.C. § 112 regarding the asserted patents, irrespective of the claim constructions identified here.

Claim Term [applicable claims]	Plaintiff's Proposed Construction and Intrinsic Evidence ⁵	Defendants' ⁶⁷ Proposed Construction and Intrinsic Evidence
	<p>preparation.”)</p> <ul style="list-style-type: none"> • 10:63 – 11:22 • 16:39 – 16:41 • 17:5 – 18:35 • 18:46 – 18:56 • 32:26 – 33:38 	
<p>“0.5%”</p> <p>[claims 7-9]</p>	<p>Plaintiff's Proposal: “0.5 area percent relative to the amount of bendamustine as determined, <i>e.g.</i>, by HPLC”</p> <p>INTRINSIC EVIDENCE:</p> <p><u>'190 Patent:</u></p> <ul style="list-style-type: none"> • 3:4 – 4:20 • 4:27 – 5:6 • 5:19 – 6:47 • 7:16 – 7:24 • 8:24 – 8:38 • 8:48 – 8:55 • 8:58 – 8:59 • 11:40 – 11:57 • 11:57 – 11:60 (“By ‘area percent of bendamustine’ is meant the amount of a specified degradant, <i>e.g.</i>, HP1, relative to the amount of bendamustine as determined, <i>e.g.</i>, by HPLC.”) • 17:28 – 17:37 • 18:64 – 20:22 	<p>Defendants' Proposal: Plain and ordinary meaning.</p> <p>INTRINSIC EVIDENCE:</p> <p><u>'190 Patent:</u></p> <ul style="list-style-type: none"> • 3:4-3:45 • 3:47-3:51

Claim Term [applicable claims]	Plaintiff's Proposed Construction and Intrinsic Evidence ⁵	Defendants' ⁶⁷ Proposed Construction and Intrinsic Evidence
	<ul style="list-style-type: none"> • 21:59 – 24:67 • 25:14 – 26:11 • 26:49 – 28:67 • 29:1 – 31:52 • Figures 2, 3, 4, and 6 <p><u>'190 Patent Prosecution History:</u></p> <ul style="list-style-type: none"> • Nov. 17, 2009 Reply Pursuant to 37 CFR § 1.111, at pp. 13-15 [CEPH_00002250-65] • Aug. 29, 2012 Notice of Allowability, at p. 3 [CEPH_00002679-82] 	
<p>“containing not more than about 0.5% bendamustine ethylester”</p> <p>[claims 7-9]</p>	<p>Plaintiff's Proposal: “containing not more than about 0.5% bendamustine ethylester relative to the amount of bendamustine as determined, <i>e.g.</i>, by HPLC”</p> <p>INTRINSIC EVIDENCE:</p> <p><u>'190 Patent:</u></p> <ul style="list-style-type: none"> • 3:4 – 4:20 • 4:27 – 5:6 • 5:19 – 6:47 • 7:16 – 7:24 • 8:24 – 8:38 • 8:48 – 8:55 • 8:58 – 8:59 • 11:40 – 11:57 	<p>Defendants' Proposal: Plain and ordinary meaning.</p> <p>INTRINSIC EVIDENCE:</p> <p><u>'190 Patent:</u></p> <ul style="list-style-type: none"> • Col.21-22 • Col.28, Table 13 <p><u>Other:</u></p> <ul style="list-style-type: none"> • '270 Patent, Claims 1-19

Claim Term [applicable claims]	Plaintiff's Proposed Construction and Intrinsic Evidence ¹¹	Defendants' ^{12,13} Proposed Construction and Intrinsic Evidence
	<ul style="list-style-type: none"> 12:10 – 12:13 (“By “area percent of bendamustine” is meant the amount of a specified degradant, e.g., HP1, relative to the amount of bendamustine as determined, e.g., by HPLC.”) 20:43 – 21:29 (C. Stability) 22:23 – 25:34 (C. Stability) 28:30 – 30:45 (Example 1: HPLC Procedures) 31:30 – 32:3 (Example 3: Stability) 33:33 – 33:44 (Example 5: Impurity Assessment) 	
<p>“amount of HP1 measured at time zero after reconstitution”</p> <p>[claim 2]</p>	<p>Plaintiff's Proposal: “amount of HP1 measured soon after dissolution in a solvent”</p> <p>INTRINSIC EVIDENCE:</p> <p><u>'270 Patent:</u></p> <ul style="list-style-type: none"> 1:41 – 1:50 (“Because of their high reactivity in aqueous solutions, nitrogen mustards are difficult to formulate as pharmaceuticals and are often supplied for administration in a lyophilized form that requires reconstitution, usually in water, by skilled hospital personal prior to administration. Once in aqueous solution, nitrogen mustards are subject to 	<p>Defendants' Proposal: Plain and ordinary meaning.</p> <p>INTRINSIC EVIDENCE:</p> <p><u>'270 Patent:</u></p> <ul style="list-style-type: none"> Col.3, 1.50-53 Col.4, 1.3-5 Col.5, 1.1-3 Col.5, 1.24-25 Col.6, 1.55-58 Col.12, 1.23-25